

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

)
) No. 03 MDL 1570 (RCC)
) ECF Case
)

This document relates to: All actions

**DECLARATION OF ALAN R. KABAT
REGARDING THE COMPLAINTS
CONSOLIDATED UNDER NO. 03 MDL 1570 (RCC)**

I am an attorney licensed to practice in the District of Columbia and am admitted *pro hac vice* in this matter. I am with the law firm of Bernabei & Katz PLLC, counsel to defendant Al Haramain Islamic Foundation, Inc. (U.S.A.). I submit this declaration to summarize the relevant statistics of the complaints consolidated under No. 03 MDL 1570 (RCC).

1. I have reviewed the nineteen complaints that have been consolidated with, or referred to, No. 03 MDL 1570 (RCC). For each complaint, I have calculated the following statistics: (a) the number of defendants; (b) the number of defendants who were voluntarily dismissed by plaintiffs; (c) the number of defendants who were dismissed by this Court's opinion in *In re: Terrorist Attacks on Sept. 11, 2001*, No. 03 MDL 1570 (RCC), 2005 WL 95708 (S.D.N.Y. Jan. 18, 2005), and by Judge Robertson's opinion in *Burnett v. Al Baraka Invest. & Devel. Corp.*, 292 F. Supp. 2d 13 (D.D.C. 2003); (d) the number of defendants who were added back to the complaint after having initially been voluntarily dismissed by the plaintiffs; and (e) the size of the complaint, *i.e.*, the number of pages (without the caption), the number of paragraphs, and the number of counts.

2. In determining the total number of defendants for each complaint, I did not include multiple listings of the same individual defendant, or “a/k/a” listings. In determining the total number of defendants for all the proceedings in No. 03 MDL 1570, I attempted to reconcile inconsistent spellings of the names of single individual defendants across the complaints. In reviewing the complaints, it was readily apparent that most if not all the complaints with numerous defendants, including *Ashton*, *Burnett*, *Federal Insurance*, *Salvo*, and *Tremsky*, erroneously listed the same person’s name several times, as purported separate defendants, sometimes even on the same page. Also, given that several of these complaints were copied from earlier-filed complaints, misspellings in one complaint were copied into other complaints.

3. To summarize, in the nineteen operative complaints, I have identified a total of 835 named defendants, and an additional 6,775 anonymous (“John Doe”) defendants. The nineteen complaints span a total of 2,096 pages (not counting the captions listing the parties), and 7,258 numbered paragraphs (with some complaints, including *Burnett* having additional introductory paragraphs that are not numbered), and a total of 186 counts.

4. *Ashton, et al. v. Al Qaeda Islamic Army, et al.*, Case No. 02-CV-6977. The Third Amended Complaint (Sept. 5, 2003) lists 440 defendants. Subsequent to the filing of the Third Amended Complaint, the *Ashton* plaintiffs voluntarily dismissed 258 of the 440 defendants. See MDL Docket Nos. 230, 562, 549, 550, 562, and 563. The Third Amended Complaint includes six defendants who were first named in an earlier complaint, subsequently dropped from an intervening complaint, and then added back. This Court dismissed six defendants from *Ashton*. The Third Amended Complaint consists of 213 pages (not counting the caption), 625 numbered paragraphs, and eight counts.

5. Burnett, et al. v. Al Baraka Investment & Development Corp., et al., Case No. 03-CV-9848. The Third Amended Complaint (Nov. 22, 2002) lists 189 defendants, and the *Burnett* plaintiffs subsequently added 114 defendants, for a total of 303 named defendants, and an additional 5,000 anonymous defendants. Subsequent to the filing of the Third Amended Complaint, the *Burnett* plaintiffs voluntarily dismissed twenty-five of the 303 defendants. See MDL Docket Nos. 20, 186, 210, 286, 432, and 602; D.D.C. Docket Nos. 77, 78, 139, 213, 245, 261, 367, 432, and 438. However, the *Burnett* plaintiffs then added back twelve defendants whom they had previously dismissed. Compare Notice of Voluntary Dismissal (Feb. 21, 2003) (D.D.C. Docket No. 77) with Notice of Addition/Removal of Parties (Jan. 3, 2005) (MDL Docket No. 602). This Court dismissed thirteen defendants from *Burnett*, including two dismissed by Judge Robertson and for whom the plaintiffs sought reconsideration. The Third Amended Complaint consists of 203 pages (not counting the caption), 723 numbered paragraphs (not counting over twenty pages of introductory text for which the paragraphs are not numbered), and fifteen counts.

6. Burnett, et al. v. Al Baraka Investment & Development Corp., et al., Case No. 03-CV-5738. The First Amended Complaint (Sept. 3, 2003) lists 361 defendants, and an additional 5,000 anonymous defendants, and was stated to be identical with the complaint filed in the U.S. District Court for the District of Columbia, other than in listing more defendants. Subsequent to the filing of the First Amended Complaint, the *Burnett* plaintiffs voluntarily dismissed six of the 361 defendants. See MDL Docket Nos. 186, 210, and 286. This Court dismissed two defendants from *Burnett* (the other eleven defendants who were dismissed from *Burnett*, No. 03-CV-9848, had not moved against the second *Burnett* action). The First

Amended Complaint consists of 194 pages (not counting the caption), 723 numbered paragraphs (not counting over twenty pages of introductory text for which the paragraphs are not numbered), and fifteen counts.

7. Cantor Fitzgerald Associates, LP, et al. v. Akida Investment Co., Ltd., et al., Case No. 04-CV-7065. The First Amended Complaint (Dec. 7, 2004) lists eighty-nine defendants, and an additional 10 anonymous defendants. The First Amended Complaint consists of sixty pages (not counting the caption), 242 numbered paragraphs, and thirteen counts.

8. Continental Casualty Co., et al. v. Al Qaeda Islamic Army, et al., Case No. 04-CV-05970. The First Amended Complaint (Dec. 7, 2004) lists 431 defendants. Subsequent to the filing of the First Amended Complaint, the *Continental Casualty* plaintiffs voluntarily dismissed six of the 431 defendants. See MDL Docket Nos. 622, 652. The First Amended Complaint consists of 181 pages (not counting the caption), 617 numbered paragraphs, and three counts.

9. Euro Brokers, Inc., et al. v. Al Baraka Investment and Development Corp., et al., Case No. 04-CV-07279. The Complaint (Sept. 10, 2004) lists 201 defendants. The Complaint consists of forty-three pages (not counting the caption), 192 numbered paragraphs, and nine counts.

10. Federal Insurance Co., et al. v. Al Qaida, et al., Case No. 03-CV-6978. The First Amended Complaint (Mar. 10, 2004) lists 581 defendants. Subsequent to the filing of the First Amended Complaint, the *Federal Insurance* plaintiffs voluntarily dismissed seventy-nine of the 581 defendants. See MDL Docket Nos. 22, 188, 288, 496, 538, 562, 549, 552, 562, 566, 567, 568, 569, and 573. This Court dismissed five defendants from *Federal Insurance*. The First

Amended Complaint consists of 165 pages (not counting the caption), 646 numbered paragraphs, and twelve counts.

11. Havlish, et al. v. Bin Laden, et al., Case No. 03-CV-09848. The Class Action Complaint (Feb. 12, 2002) listed forty-four defendants. The Amended Class Action Complaint (Sept. 5, 2003) lists twenty defendants, and an additional 500 anonymous defendants, with the remaining twenty-four defendants from the original complaint dropped. The Amended Class Action Complaint consists of 124 pages (not counting the caption), 367 numbered paragraphs, and ten counts.

12. Morrison v. Kingdom of Saudi Arabia, et al., Case No. 04-CV-7210. The Class Action Complaint (Sept. 10, 2004) lists eight defendants. The Complaint consists of ten pages (not counting the caption), thirty-two numbered paragraphs, and one count.

13. New York Marine and General Insurance Co. v. Al Qaida, et al., Case No. 04-CV-6105. The First Amended Complaint (Dec. 23, 2004) lists 561 defendants. The First Amended Complaint consists of twenty-five pages (not counting the caption), eighty-three numbered paragraphs, and seven counts.

14. Estate of O'Neill, et al. v. Republic of Iraq, et al., Case No. 04-CV-1076. The Second Amended Complaint (Dec. 29, 2004) lists 111 defendants, and an additional 67 anonymous defendants. The Second Amended Complaint consists of eighty-two pages (not counting the caption), 258 numbered paragraphs, and ten counts.

15. Estate of O'Neill, et al. v. Kingdom of Saudi Arabia, et al., Case No. 04-CV-1922. The Class Action Complaint (Mar. 10, 2004) lists twenty-five defendants, and an

additional 99 anonymous defendants. The Class Action Complaint consists of forty-four pages (not counting the caption), 184 numbered paragraphs, and thirteen counts.

16. Estate of O'Neill, et al. v. Al Baraka Investment and Development Corp., et al., Case No. 04-CV-1923. The Second Amended Class Action Complaint (Dec. 30, 2004) lists 139 defendants, and an additional 99 anonymous defendants. The Second Amended Class Action Complaint consists of fifty pages (not counting the caption), 188 numbered paragraphs, and twelve counts.

17. Pacific Employers Ins. Co., et al. v. Kingdom of Saudi Arabia, et al., Case No. 04-CV-7216. The Complaint (Sept. 10, 2004) lists two defendants. The Complaint consists of thirty-two pages (not counting the caption), ninety-five numbered paragraphs, and eleven counts.

18. Salvo, et al. v. Al Qaeda Islamic Army, et al., Case No. 03-CV-5071. The First Amended Complaint (Sept. 4, 2003) lists 376 defendants. Subsequent to this Court's January 18, 2005 Opinion and Order, the *Salvo* plaintiffs voluntarily dismissed 184 of the 376 defendants. See MDL Docket No. 633. This Court dismissed two defendants from *Salvo*. The First Amended Complaint consists of 225 pages (not counting the caption), 620 numbered paragraphs, and seven counts.

19. Tremsky, et al. v. Osama Bin Laden, et al., Case No. 02-CV-7300. The First Amended Complaint (Aug. 22, 2003) lists ninety-eight defendants. This Court dismissed two defendants from *Tremsky*. The First Amended Complaint consists of seventy-four pages (not counting the caption), 285 numbered paragraphs, and fifteen counts.

20. Vadhan v. Riggs Nat'l. Corp., et al., Case No. 04-CV-7281. The Class Action Complaint (Sept. 10, 2004) lists two defendants. The Class Action Complaint consists of forty pages (not counting the caption), 120 numbered paragraphs, and five counts.

21. Vigilant Ins. Co., et al. v. Kingdom of Saudi Arabia, et al., Case No. 03-CV-8591. The Complaint (Oct. 28, 2003) lists two defendants. This Court dismissed one defendant from *Vigilant Insurance*. The Complaint consists of seventeen pages (not counting the caption), sixty-six numbered paragraphs, and eleven counts.

22. World Trade Center Properties LLC, et al. v. Al Baraka Investment and Development Corp., et al., Case No. 04-CV-07280. The Complaint (Sept. 10, 2004) lists 201 defendants. The Complaint consists of 314 pages (not counting the caption), 1192 numbered paragraphs, and nine counts.

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on February 7, 2005.

A handwritten signature in black ink that reads "Alan R. Kabat". The signature is written in a cursive, flowing style.

ALAN R. KABAT